

Evidentiary vs Non-evidentiary

Enabling Learning Objectives

- 1. Define evidentiary and non-evidentiary.**
- 2. Select from a list the requirements for an alcohol test to be considered evidentiary.**
- 3. Given a scenario, determine if the test results could be used in a board or Courts Martial.**



Evidentiary Vs Non-evidentiary

- ▮ Evidentiary simply means that the test results can be used in a board or courts martial
- ▮ Non-evidentiary means that the test results cannot be used in a board or courts martial



Evidentiary Requirements

- ▮ **For an alcohol test result to be considered evidentiary it must meet the following requirements:**
 - ▮ **The test must have chain of custody documentation.**
 - ▮ **The instrument used must be calibrated.**
 - ▮ **The instrument operator must be certified, usually by the manufacturer on an annual basis.**



Evidentiary Requirements

- ▢ **Evidentiary requirements (cont):**
 - ▢ **Quality control samples (samples with known alcohol concentrations) must be ran to validate the instrument is working properly prior to any real specimen.**
 - ▢ **A printout of all test data must be printed to include calibration, quality control and Soldier's specimen data.**



Testing for alcohol

- ▮ If any of the evidentiary requirements are not met then a test will be considered non-evidentiary.



Getting an Evidentiary Test

- ▮ **Your installation may have devices for you to conduct screening tests at your unit for alcohol. If a Soldier tests positive ($> 0.05\%$) then the commander may order a probable cause or fitness for duty test depending on if the Soldier smells of alcohol or shows signs of impairment. (The commander should check with the local SJA).**



Getting an Evidentiary Test

- ▮ **Most installations have two possible evidentiary tests available; check with your local SOP and ASAP for procedures:**
 - ▮ **An evidentiary breath test conducted by the Military Police.**
 - ▮ **An evidentiary blood test conducted at the Medical Treatment Facility.**



Getting a Evidentiary Test

- ▮ **National Guard, Army Reserve, and activities not located near installations (i.e. recruiters) should consult with the MACOM for guidance on memorandums of agreement with local law enforcements or other possible agencies.**